



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

## BOOK REVIEWS.

---

NATIONAL SUPREMACY. TREATY POWER V. STATE POWER. By Edward S. Corwin of the department of History and Politics, Princeton University. Henry Holt & Co., New York, 1913. Pp. 313.

This is a brilliant study of an important topic in our constitutional law, the treaty-making power. Incidentally, and while pursuing the argument from analogy the author discusses in an illuminating way other important constitutional subjects such as the commerce power and the taxing power of Congress. The larger portion of the book is devoted to the refutation of the contention that the "reserved powers" of the states constitute limitations upon the power of the President and the Senate to make treaties.

Aside from the clause in the Constitution granting the treaty-making power in unlimited terms, and that denying any power in this respect to the states, the pertinent provisions in our Constitution are, of course, Article VI, paragraph 2, declaring the Constitution, the laws of the United States and treaties to be the supreme law of the land, and the Tenth Amendment, declaring that the powers not delegated to the United States are reserved to the several states and the people. The argument of those who believe that the Tenth Amendment constitutes a limitation upon all the powers of the United States, Dr. Corwin attacks rather neatly by saying that it is based upon a strained construction which would make that Amendment read "the powers reserved to (or by) the States are not delegated to the United States" (p. 6). This of course is an obviously erroneous interpretation, for a reservation in general terms of non-delegated powers could not possibly limit powers expressly or by reasonable implication granted to the United States. As Dr. Corwin remarks the question of supremacy as between an exertion of federal power and a supposed reserved power of a State must be settled not by the Tenth Amendment, but by Article VI of the Constitution. In the reviewer's opinion, however, it is impossible to dispose of this controversy, with certainty or finality, by any study of these two clauses, for they are not complementary, nor do they necessarily make mutually exclusive and definitive grants of power to the United States and the several states respectively.

Nor does Dr. Corwin rest his case there. He proceeds to an exhaustive and keen study of the cases in which this power is considered, dividing this portion of his examination according to three periods: first, the period of strong nationalistic interpretation by the Supreme Court, ending with the accession of Taney to the chief justiceship; second, the period of the expanding police powers of the States; and finally the period since the Civil War, during which the pendulum has swung strongly toward nationalism again. As is well known, no treaty has been declared unconstitutional on the ground that it conflicted with any of the "reserved powers." On the contrary many treaties regulating matters concerning which the states habitually legislate, have been sustained.

Nowhere else has there been such an effective marshalling of the adjudications, the practice of the government, and the opinions of attorneys-general and of law writers favorable to the view of national supremacy in this matter.

The author concludes that the treaty-making power is unlimited except that of course it cannot deal with or affect matters not properly within the scope of international negotiation; and further except as the very nature of our government limits it. For example, no treaty could lawfully provide for a change in our federal government or in those of the states, though it is believed that in case of necessity the United States by treaty might cede territory of a state. The first limitation, namely, that a treaty may deal only with subject-matter properly *inter alios*, is of course a somewhat vague and shifting one. Possibly it would exclude from treaty-making more matters within the category of "reserved rights" than Dr. Corwin is inclined to concede. At any rate here is an important check upon the President and Senate, as indeed Dr. Corwin points out. This and other checks such as the required consent of the Senate (the special representative of the states), the power of Congress to abrogate treaties, the interest of the nation to preserve the police power of the states, are set forth in the concluding chapter.

The reviewer finds little difficulty in agreeing with Dr. Corwin's main contentions. He perhaps states some of them in extreme terms, for he travels to what he deems logical conclusions with remorseless boldness. Some of his arguments from analogy are not entirely convincing, or rather it may be said that the commerce and taxing powers of Congress so often referred to in the book do not afford perfect analogies to the treaty-making power. The chapter on the "enforcement of treaties" covers some ground that is certainly debatable. But with the main thesis of the book that the Tenth Amendment does not constitute a limitation upon the supremacy of the nation in making treaties, the present reviewer finds himself in hearty accord.

The book as a whole is characterized by the keen and brilliant analysis, careful research and the scholarly and comprehensive grasp of the principles of our constitutional law, with which the readers of this Review already have been made familiar by several articles by Dr. Corwin. It is a very valuable contribution to a subject of great importance.

H. M. B.

---

FOREIGNERS IN TURKEY: THEIR JUDICIAL STATUS, by Philip Marshall Brown, Assistant Professor of International Law and Diplomacy in Princeton University, formerly Secretary and Charge D'Affaires of the American Embassy in Constantinople, and Minister to Honduras. Princeton: Princeton University Press, 1914; pp. vii, 157.

In view of the recent declaration by Turkey of her intention to abrogate all treaties containing extraterritorial grants to foreigners, Professor Brown's volume is unusually timely and interesting. Based upon personal investigation and observation in Turkey and a careful examination of the large and varied literature of the subject, the work, while almost distressingly brief,